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### **HB 73 Withholding Exemption for Certain Nonresident Shareholders**

Utah Code §§59-7-101, 59-7-702, 59-7-703, 59-10-108.2; Administrative Rule R865-6F-35 **Effective Date January 1, 2003**

Expands the definition of a nonresident shareholder. A "nonresident shareholder" is any shareholder of an S corporation who on the last day of the taxable year of the S Corporation is:

1. an individual not domiciled in Utah;
2. a nonresident trust or nonresident estate; or
3. an organization exempt under Section 501, Internal Revenue Code.

The obligation to pay or withhold tax no longer applies to a nonresident organization that is exempt under §59-7-102(1)(a).

In the past, an S corporation had to withhold the tax and then the nonresident shareholder had to file a return to claim the refund. Now, S corporations are no longer required to withhold state corporate franchise tax on behalf of nonresident shareholders that are exempt from corporate tax under Section 501, IRC.

The exemption from filing for a nonresident **individual** shareholder who has no other Utah source income has changed to **any** nonresident shareholder with no other Utah source income.

### **HB 162 Amendments Related to Financial Institutions (Credit Union Bill)**

Utah Code §§7-1-708, 7-7-10, 7-9-3, 7-9-5, 7-9-6, 7-9-11, 7-9-12, 7-9-16, 7-9-20, 7-9-26, 7-9-34, 7-9-37, 7-9-39, 7-9-39.5, 7-9-46, 7-9-51, 7-9-52, 7-9-53, 7-9-55 to 7-9-58, (click here to view Title 7, Chapter 9), 59-1-403, 59-7-101 & 102 **Effective Date May 5, 2003**

Provides that a credit union may become subject to corporate franchise tax if the credit union has a field of membership that includes all residents of 2 or more counties, at least 2 of those counties are counties of the first class, and the Legislature repeals the corporate franchise tax exemption in the 2005 General Session. Provides for an elective competitive equity assessment calculated in accordance with a formula adopted in the 2005 General Session.

It establishes a two-year legislative task force to study issues related to credit unions and other financial institutions. Restrictions in the Utah Credit Union Act, in effect on May 5, 2003, should remain in effect until such time for the Legislature to study whether or not to impose state corporate franchise and income taxes, a competitive equity assessment, or any similar charge on credit unions the size and activities of which require that measures be taken to ensure competitive equity within Utah's financial market.

A nonexempt credit union may be subject to corporate franchise and income taxes beginning on the date specified by the Legislature in the 2005 General Session if the Legislature affirmatively states that a nonexempt credit union is subject to corporate franchise and income taxes.

### **HB 240 Venture Capital Enhancement Act**

Utah Code §§9-2-1205, 9-2-1901 through 9-2-1924, 63-55-209, 63E-1-102, 63E-1-302 & 303 **Effective Date July 1, 2003**

Creates the Utah Venture Capital Enhancement Act and the Utah fund of funds to promote commerce, create new jobs, and strengthen and diversify the economy of the state. The statute reads that "a need exists to increase the availability of venture equity capital for emerging, expanding, and restructuring enterprises in Utah, including enterprises in the life sciences, advanced manufacturing, and information technology." To encourage investment, incentives will be offered to private persons for making investments in the Utah fund of funds.

Creates the Utah Capital Investment Board to establish the criteria and procedures for issuance, allocation, and redemption of contingent tax credits to investors by means of certificates issued by the board. The certificates are considered a contract between the board and the investor under which a contingent tax credit is available and issued to the investor.

The board and the Tax Commission will make rules governing the form, issuance, and redemption of the certificates. The certificates will be issued in conjunction with an investment in the Utah fund of funds by a designated investor. A contingent tax credit will be certified by the board only if the actual return to the designated investor is less than the return that was targeted at the issuance of the certificate.

Creates the Utah Capital Investment Corporation to organize the Utah fund of funds and manage seed and venture capital investments. The corporation will solicit investment plan proposals throughout the nation for the raising and investing of capital by the Utah fund of funds.

### **SB 43 Providing Information Relating to Tax Credits and Tax Filing Due Dates**

Utah Code §§9-2-1803, 59-7-605 to 608 & 610, 59-10-108.7, 59-10-109, 59-10-127 to 59-10-129, 59-10-507, 59-10-514 ([click here to view Title 59, Chapter 10](#)); Administrative Rule R865-91-39 (see rule explanation below) **Effective Date January 1, 2003**

Applicants of the following tax credits are no longer required to attach copies of tax credit eligibility forms or written statements confirming certification to their individual income or corporate franchise tax returns. For record keeping purposes, the applicants must retain documents confirming the tax credits.

1. Targeted Business Income Tax Credit
2. Clean Fuel Alternative Tax Credit (**credit expired 1/1/2003**)
3. Clean Fuel Vehicle Tax Credit
4. Low Income Housing Tax Credit
5. Credit for Employers Who Hire Persons with Disabilities
6. Recycling Market Development Zones Tax Credit

Repeals the requirement that a partnership enclose a copy of its federal partnership return with the state return.

Extends the due date for electronic filing of individual income tax with the Tax Commission to match any extended filing date the IRS allows for electronically filed returns.

For the Low Income Housing Tax Credit, a housing sponsor is still required to attach Form TC-40LIS *Credit Share Summary of Low-Income Housing Project* to the housing sponsor's tax return for each taxable year for which the sponsor issues a tax credit certificate for low-income housing.

The Utah Housing Corporation determines the amount of credit and issues an allocation certificate to the qualifying housing sponsor. In turn, the housing sponsor provides a copy of the allocation certificate to each taxpayer that is issued a special low-income housing tax credit certificate. The housing sponsor is also required to provide the Tax Commission with a list of the taxpayers issued a special low-income housing tax credit certificate and the amount of each tax credit (form TC-40LIS).

Rule R865-91-39 modified. Taxpayers claiming a disabled exemption on form TC-40D are no longer required to attach a copy of the form to their individual income returns. The form must still be completed for each year the taxpayer claims the deduction, but the taxpayer must retain the documentation to substantiate the credit for audit and record keeping purposes.